

(8) Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on drugs.

(9) Based on the tests and inspections described in element 7, the number of covered employees charged with a violation of the railroad's Rule G or similar rule or policy on alcohol.

(10) Number of covered employees who refused to submit to a random drug test required under FRA authority.

(11) Number of covered employees who refused to submit to a non-random drug test required under FRA authority.

(12) Number of supervisory personnel who have received the required initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use during the reporting period.

[58 FR 68235, Dec. 23, 1993]

Subpart J—Recordkeeping Requirements

SOURCE: 59 FR 7466, Feb. 15, 1994, unless otherwise noted.

§ 219.901 Retention of breath alcohol testing records.

(a) *General requirement.* Each railroad shall maintain records of its alcohol misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) *Period of retention.* Each railroad shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following shall be maintained for a minimum of five years:

(i) Records of alcohol test results with results indicating an alcohol concentration of .02 or greater, documentation of refusals to take required alcohol tests, calibration documentation, and employee evaluation and referrals;

(ii) A summary record of each covered employee's test results; and

(iii) A copy of the annual report summarizing the results of its alcohol mis-

use prevention programs (if required to submit under § 219.801(a).

(2) *Two years.* Records related to the collection process (except calibration of evidential breath testing devices) and training shall also be maintained for a minimum of two years.

(3) *One year.* Records of all test results below .02 shall be maintained for a minimum of one year.

(c) *Types of records.* The following specific records must be maintained.

(1) Records related to the collection process:

(i) Collection logbooks, if used.

(ii) Documents relating to the random selection process.

(iii) Calibration documentation for evidential breath testing devices.

(iv) Documentation of breath alcohol technician training.

(v) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.

(vi) Documents generated in connection with decisions on post-accident testing.

(vii) Documents verifying the existence of a medical explanation of the inability of a covered employee to provide an adequate breath sample.

(2) Records related to test results:

(i) The railroad's copy of the alcohol test form, including the results of the test.

(ii) Documents related to the refusal of any covered employee to submit to an alcohol test required by this part.

(iii) Documents presented by a covered employee to dispute the result of an alcohol test administered under this part.

(3) Records related to other violations of this part.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.

(ii) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

(5) Records related to evaluation and training:

(i) Materials on drug misuse awareness, including a copy of the railroad's policy on drug misuse.

(ii) Documentation of compliance with the requirements of § 219.23.

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this part complies with the requirements for such training.

§ 219.903 Retention of urine drug testing records.

(a) *General requirement.* Each railroad shall maintain records of its drug misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) *Period of retention.* Each railroad shall maintain the records in accordance with the following schedule:

(1) *Five years.* The following shall be maintained for a minimum of five years:

(i) Records of employee positive drug test results, documentation of refusals to take required drug tests, and employee evaluation and referral;

(ii) A summary record of each covered employee's test results; and

(iii) A copy of the annual report summarizing the results of its drug misuse prevention program (if required to submit under § 219.803(a)).

(2) *Two years.* Records related to the collection process and training shall be maintained for a minimum of two years.

(3) *One year.* Records of negative test results (as defined in Part 40 of this title) shall be maintained for a minimum of one year.

(c) *Types of records.* The following specific records must be maintained.

(1) Records related to the collection process:

(i) Documents relating to the random selection process.

(ii) Documents generated in connection with decisions to administer reasonable suspicion drug tests.

(iii) Documents generated in connection with decisions on post-accident testing.

(iv) Documents verifying the existence of a medical explanation of the in-

ability of a covered employee to provide a urine sample.

(2) Records related to test results:

(i) The railroad's copy of the drug test custody and control form, including the results of the test.

(ii) Documents related to the refusal of any covered employee to submit to a drug test required by this part.

(iii) Documents presented by a covered employee to dispute the result of a drug test administered under this part.

(3) Records related to other violations of this part.

(4) Records related to evaluations:

(i) Records pertaining to a determination by a substance abuse professional concerning a covered employee's need for assistance.

(ii) Records concerning a covered employee's compliance with the recommendations of the substance abuse professional.

(5) Records related to evaluation and training:

(i) Materials on alcohol misuse awareness, including a copy of the railroad's policy on alcohol misuse.

(ii) Documentation of compliance with the requirements of § 219.23.

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this part complies with the requirements for such training.

§ 219.905 Access to facilities and records.

(a) Release of covered employee information contained in records required to be maintained under §§ 219.901 and 219.903 shall be in accordance with 49 CFR part 40 and this section. (For purposes of this section only, urine drug testing records shall be considered equivalent to breath alcohol testing records.)

(b) Each railroad shall permit access to all facilities utilized in complying with the requirements of this part to the Secretary of Transportation or any DOT agency with regulatory authority